

ARGUMENTS/REMARKS

Applicants would like to thank the Examiner for the careful consideration given the present application, and for the personal interview conducted on September 14, 2004. The application has been carefully reviewed in light of the Office action and the interview, and amended as necessary to more clearly and particularly describe and claim the subject matter which applicants regard as the invention.

Claims 1, 3-22, and 24-31 remain in this application. Claims 2 and 23 have been canceled. The Examiner has acknowledged that claims 12-16 and 24-28 are directed to allowable subject matter. Claims 7-11, 18, 19, 21, and 22 were objected to for being dependent upon a rejected base claim, but being patentable if made independent.

Note that, because the Examiner indicated at the interview that claim 1, which is not herein amended, is probably patentable over the combination of references, the finality of the action should be withdrawn and thus the amendments of claims 3, 4 and 29 should be entered.

Claims 1, 3-6, 9, 17, 20/1, 29, 30, 31/17, 31/29, and 31/30 were rejected under 35 U.S.C. §103(a) as being unpatentable over Rich *et al.* (U.S. 5,758,271) in view of Umemoto *et al.* (U.S. 4,939,766). For the following reasons, the rejection is respectfully traversed.

As discussed at the personal interview, claim 1 recites a threshold setting means for “setting a threshold of an electric field intensity level based on the *measured error rate* of the received signal, wherein said threshold setting is *varied depending on a transmission condition*” (emphasis added). The Examiner agreed that Umemoto, cited for teaching a threshold change, does not teach that the threshold is changed based on a “measured error rate” as recited in the claim. Accordingly, the Examiner agreed that claim 1 appears to overcome the combination of references. Claim 17 contains a similar limitation, and thus overcomes the combination of references as well.

Claims 3, 4, and 29, have been amended to recite “threshold setting means for *automatically* setting a threshold of an electric field intensity level based on the transmission condition of the received signal” (emphasis added). The cited references do not teach this element as limited by the claim language.

At the personal interview, it was discussed that Umemoto discloses only a *manual* means of changing a threshold value, by a user action (see abstract; col. 5, lines 34-36 and 44-46; col. 6 lines 22-26; col. 6 lines 37-41; col. 7, lines 41-46 and 63-68; col. 8 lines 44-65; col. 9 lines 5-45). Umemoto teaches using a manual switch, such as a pushbutton operating key, operated by a user to adjust a threshold setting so that the threshold can be changed during communication (see Fig. 5 and accompanying text; see also col. 5, lines 33-35 and 44-46; see further col. 7, lines 41-46 and 63-68 and col. 8 lines 44-59). Various additional manually user operated implementations are disclosed (see col. 9, lines 5-7, discussing a keypad). No automatic means of changing a threshold is suggested by the reference. Thus, claims 3, 4, and 29 are patentable over the references.

Further, as discussed at the interview, it appears that Umemoto teaches that the user activates the switch (and thus changes the threshold) in response to a desire to enter a *speech* mode (see col. 9 lines 5-45). There is no suggestion that the threshold is changed in response to a *transmission condition* of the received signal, as recited in the claims. Thus, claims 3, 4, and 29 are patentable over the references for this reason as well.

The remaining claims depend on one of claims 1, 3, 4, 17, 29, and 30, and thus are patentable over the references for at least the same reasons as the parent claims.

Furthermore, the Examiner has failed to provide the proper motivation for making the combination. Stating that it would be "obvious...in order to ensure high quality communications based on received electric field intensity of received signals". This is clearly not a legally sufficient motivation for modifying the base reference. It is nothing more than a generalized benefit that could pretty much be cited for a multiplicity of modifications. There is nothing that would suggest to one skilled in the art to make the specific modification that the Examiner is proposing. Thus, the Examiner has failed to support a *prima facie* case of obviousness, and thus the rejection should be withdrawn.

In consideration of the foregoing analysis, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

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If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 32930.

Respectfully submitted,

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